

# Key Points of the Belfast Agreement

## Constitutional Issues

### British constitution

The Government of Ireland Act, claiming British jurisdiction over Northern Ireland, is to be repealed.

### Political status

Northern Ireland remains part of the United Kingdom. A united Ireland could be created in the future but only with the agreement of the people in both the North and the South, subject to the consent of a majority of the people of Northern Ireland.

### Irish constitution

The Irish Constitution will be amended, withdrawing the Republic's territorial claim on Northern Ireland and offering formal recognition that Northern Ireland is legitimately part of the UK.

### Citizenship

Both governments accept the right of Northern Ireland citizens to declare themselves as either British or Irish. Dual citizenship will be provided for those who desire it.

## Implementation and review

The Agreement will be put to a popular vote in Northern Ireland and simultaneously a referendum will be held in the Republic of Ireland on the amendments to the Constitution. The two governments will sign a new British-Irish Agreement replacing the 1985 Anglo-Irish Agreement. In the event of difficulties, the two governments may institute a review in consultation with the parties in the Assembly.

## Northern Ireland Democratic Institutions (Strand One)

### Legislative Assembly

A 108-member assembly with legislative powers to govern Northern Ireland will be elected by proportional representation from 18 constituencies.

### Cross-Party Executive

The Assembly will elect The First Minister and a Deputy First Minister. Ministers will be appointed on the basis of party strength in the Assembly with responsibility for such devolved matters as health, education and social services.

### Assembly Committees

Ministers will be supported and scrutinized by a cross-party committees.

### Civic Forum

A Civic Forum made up of representatives of civil society will be consulted on social, economic and cultural issues.

## North-South Ministerial Council (Strand Two)

With a joint secretariat staffed by civil servants this council is to be established to develop co-operation between the two states. The Council is to be made up of the First Minister and Deputy First Minister of the Northern Ireland Assembly and two Ministers from the Irish government and other relevant ministers. In addition to Plenary sessions, implementation bodies will meet frequently with the participation of appropriate ministers.

## British-Irish Institutions (Strand Three)

### British-Irish Council

This council will consist of representatives of the British and Irish governments, devolved institutions in Northern Ireland, Scotland and Wales, the Isle of Man and the Channel Islands. It will exchange information, discuss, consult and seek to reach agreements on co-operation in the areas of transport links, agriculture, environment, culture, health and education as well as approaches to EU matters.

### British-Irish Intergovernmental Conference

The new Conference will bring together the British and Irish governments to promote bilateral co-operation.



## Protection of minorities

### Bill of Rights

The European Convention on Human Rights is to be incorporated into Northern Ireland law with a new Bill of Rights supporting it.

### Human Rights Commissions

Separate Human Rights Commissions will be established in Northern Ireland and the Republic of Ireland and there will be a Joint North–South Human Rights Committee to liaise between the two.

### Parallel Consent

Decisions requiring cross-community support will require a majority of those voting in the Assembly including a majority of the unionist and nationalist delegates.

### Equality Commission

This new Commission will replace the Fair Employment Commission, Equal Opportunities Commission, Commission for Racial Equality and Disability Council in Northern Ireland.

### Victims

Support for the Northern Ireland Victims Commission in developing community-based initiatives and the provision of statutory funding.

### Language Rights

The importance of respect for and tolerance of the Irish language, Ulster–Scots ‘and the languages of the various ethnic communities’ is explicitly recognised. The British government is to sign the Council of Europe Charter for Regional or Minority Languages

### Economic Development Strategy

A new economic development strategy for Northern Ireland is to be developed by the British government.

## Policing and the Judiciary

### Independent commission

This will be established to make recommendations for future policing arrangements in Northern Ireland with the aim of ensuring that the police service operates within the bounds of human rights and equal opportunity and has the confidence of the public.

### Independent review

A parallel wide-ranging review of criminal justice will be carried out aiming to ensure that a fair and impartial justice system exists, which is responsive to community concerns and has the confidence of all parts of the community.

### Prisoners

Both Governments will put in place mechanisms to provide for the release of all prisoners affiliated with organizations maintaining a complete and unequivocal ceasefire within two years of the enactment of the agreement. Facilities will be provided for re-integration of prisoners into society.

## Decommissioning and Security

The participants confirm their intention to work with the Independent Commission on Decommissioning. They are ‘to use any influence they may have to achieve the decommissioning of all paramilitary arms within two years’.

Meanwhile, the British government is committed to reducing the security forces in the North, removing security installations, ending emergency powers and taking other measures to return as soon as possible to normal peacetime security arrangements.

## Balancing differences

From a unionist viewpoint the legitimacy of Irish nationalism is not rejected in the sense that it is entitled to wish for a united Ireland, though unionism does not accept the validity of the nationalist argument. The unionist and nationalist viewpoints have equal legitimacy as viewpoints but they are entirely different in law. Northern Ireland is accepted by international law as part of the UK, whereas the nationalist viewpoint has the status of a legitimate right to wish for a change in Northern Ireland's position within the UK. The section of the Agreement entitled 'Constitutional Issues' deals with these different aspirations. It is very carefully worded in order to demonstrate that each party acknowledges and respects the concerns and aspirations of the others.

The British and Irish governments made a commitment that, in the new British–Irish Agreement replacing the Anglo–Irish Agreement of 1985, they will firstly 'recognise the legitimacy of whatever choice is freely exercised by a majority of the people of Northern Ireland with regard to its status, whether they prefer to continue to support the Union with Great Britain or a sovereign united Ireland.' Secondly, they will 'recognise that it is for the people of the island of Ireland alone, by agreement between the two parts respectively and without external impediment, to exercise their right of self-determination on the basis of consent, freely and concurrently given, North and South, to bring about a united Ireland, if that is their wish, accepting that this right must be achieved and exercised with and subject to the agreement and consent of a majority of the people of Northern Ireland.' Thirdly, they will 'acknowledge that while a substantial section of the people in Northern Ireland share the legitimate wish of a majority of the people of the island of Ireland for a united Ireland, the present wish of a majority of the people of Northern Ireland, freely exercised and legitimate, is to maintain the Union....' The other parties to the talks endorsed that commitment.

Additionally, in paragraph five of the section of the Agreement entitled 'the Declaration of Support', the parties 'acknowledge the substantial differences between our continuing, and equally legitimate, political aspirations. However, we will endeavour to strive in every practical way towards reconciliation and rapprochement within the framework of democratic and agreed arrangements. We pledge that we will, in good faith, work to ensure the success of each and every one of the arrangements to be established under this agreement. It is accepted that all of the institutional and constitutional arrangements – an Assembly in Northern Ireland, a North–South Ministerial Council, implementation bodies, a British–Irish Council and a British–Irish Intergovernmental Conference and any amendments to British Acts of Parliament and the Constitution of Ireland –

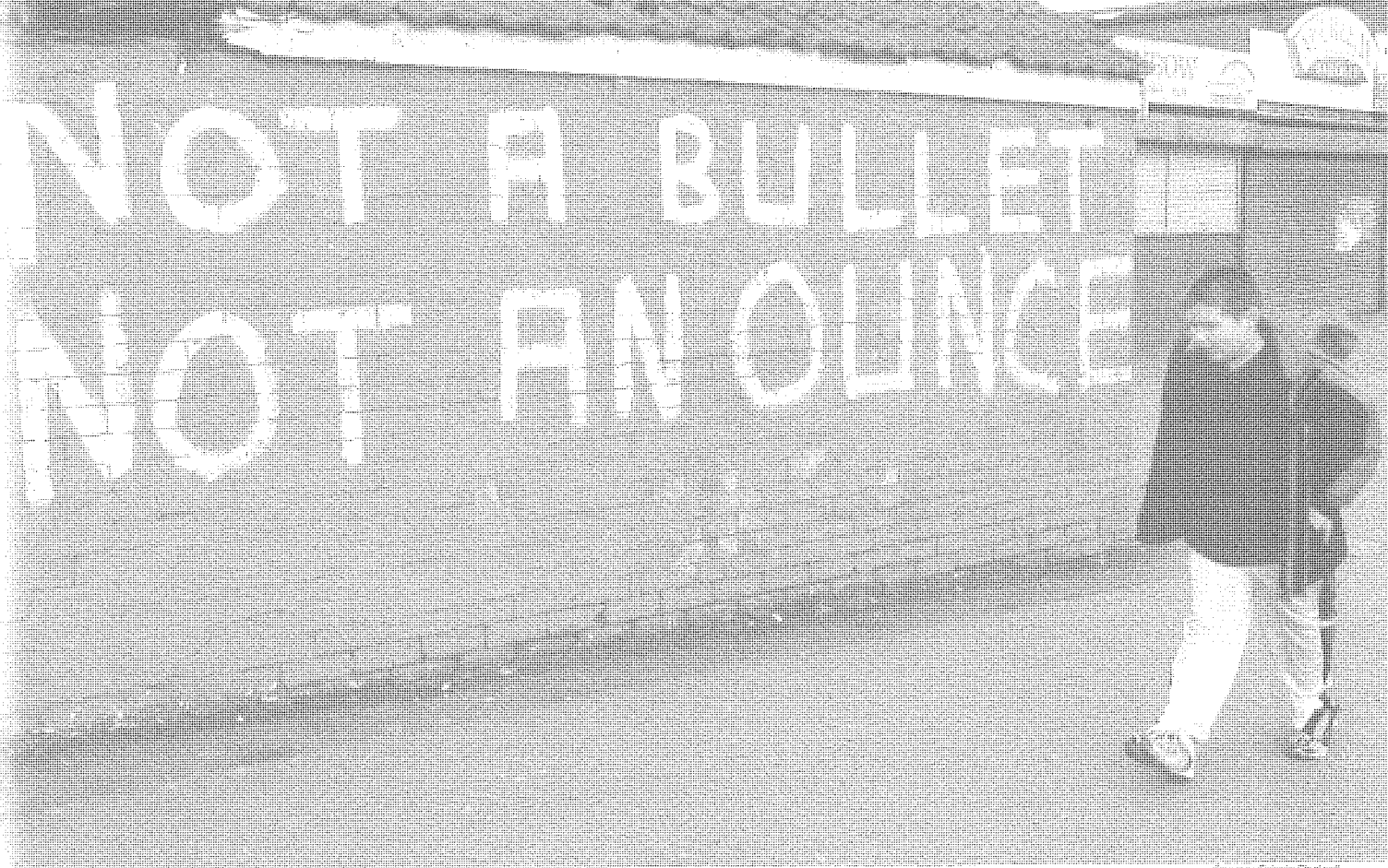
are interlocking and interdependent and that in particular the functioning of the Assembly and the North–South Council are so closely inter-related that the success of each depends on that of the other.' From a unionist point of view these bodies do not take away from the current position of Northern Ireland within the United Kingdom but from a nationalist perspective they provide opportunities for co-operation based on mutual benefit and allowing for their identification with the whole island of Ireland.

In order to make these arrangements function each identity group has to have confidence in the commitment and goodwill of the others. The Agreement therefore included a system of checks and balances so that if one part of the Agreement does not work the other parts will also cease to apply. For example, Ministers are expected to sit on the Executive Committee of the Northern Ireland Assembly and to take part in the North–South Ministerial Council established to 'bring together those with executive responsibilities in Northern Ireland and the Irish government' and 'develop consultation, co-operation and action within the island of Ireland'. Some politicians will embrace this dual role as a reflection of their commitment to good government. Others may find one or other of these bodies difficult, but they do not have the option of only taking part in the one which fits best with their own sense of identity.

## International law and territorial boundaries

During the negotiations matters relating to the relationship with Dublin were the most difficult to resolve. The only reference in international human rights law to cross-border links is to be found in Article 17 of the Council of Europe's Framework Convention which states 'The parties undertake not to interfere with the right of persons belonging to national minorities to establish and maintain free and peaceful contacts across frontiers with persons lawfully staying in other states, in particular those with whom they share an ethnic, cultural, linguistic or religious identity, or common cultural heritage.' It is worth noting that this article supports people belonging to a minority in establishing and maintaining free and peaceful contact across borders, but it does not extend to formal trans-border political institutions.

Various concepts in the practice of international law are relevant to the Northern Ireland situation. The international community has tended not to recognize as legitimate the change of state boundaries as the result of the use of force, even though it has not always been able to prevent such action. When faced by irredentist claims by neighbouring states, or separatist demands by a national group, the presumption is that the existing



Source: Ciarán Fionn

jurisdiction of the institutions of the state should be respected. If there is dissension within a region of a state regarding the validity of that state, autonomous regional government should be developed and institutions should be created within that state to protect all ethnic groups. Tension and a lack of trust across borders should be countered by encouraging co-operation and should be built up slowly from the base of already existing regional government. Where there is a state that has an ethnic affinity with a group of people in a neighbouring state, it has a natural interest in the welfare of that minority but this does not extend to a say in its government. The UUP wants to see a network of practical political co-operation extended to all the regions of the United Kingdom and the Republic of Ireland on matters that are of mutual benefit as there is more in common between the two states than there is dividing them. Alongside the North–South Ministerial Body there is also a ‘British–Irish Council’ to ‘promote the harmonious and mutually beneficial development of the totality of relationships’ between the peoples of the UK and the Irish Republic.

### The final difficulty

There are indeed unique aspects to the Belfast Agreement, not least the right of all the major parties, based on electoral strength, to have a role in the government. Sinn Féin, as the political representatives of the republican movement, has a right to be in the government of Northern Ireland along with other

political parties, but participation by each party is conditional on its acceptance of democratic principles. However, it is not enough to merely subscribe formally to international democratic norms. All sections of the Northern Ireland community must feel at ease with each other. The psychological barriers of distrust and lack of confidence must be broken down. There is no place in a functioning democracy for equivocation on violence or the threat of violence. The right to be in government carries with it a responsibility to demonstrate absolute commitment to peace, democracy and therefore stability. It goes beyond accepted international norms for a political section of any movement to participate in the government of a region when its paramilitary section has done no more than declare a ceasefire: by the end of 1999 the threat of a return to violence by the IRA was undiminished.

One difficulty in the Agreement is that the provisions are interdependent but some could come into operation earlier than others. Parties found it difficult to be sure that if they met their commitments other parties would do the same. Since the Agreement, the UUP has consistently argued that all parties could fulfil all their commitments under the Agreement simultaneously and that this would be the best way to develop confidence and to allow both communities to feel at ease with each other. In particular, the commitments to forming the government and to decommissioning paramilitary arms could have taken place at the same time, a process known as ‘jumping together’. This is only fair and reasonable and it was







***Bertie Ahern and Tony Blair at Hillsborough, 1999***

hoped that the republican movement could see a way to accept this proposition.

Consequently, the UUP was unwilling to participate in the creation of the Executive in the absence of a start to decommissioning. Sinn Féin's view, expressed in the words of national chairperson Mitchell McLaughlin, that 'as far as republicans are concerned... they (the unionists) will never enter into a power-sharing executive' is simply untrue and now has been clearly shown to be untrue. The UUP still believes that the other commitments which have been entered into and effected must be matched by a commitment from the republican movement, and in particular the IRA, to end violence. Without that commitment, demonstrated by decommissioning, the new Northern Ireland government will not be sustainable. With that commitment fully demonstrated will come the full and balanced implementation of the Agreement.

The Belfast Agreement reflects fully the guiding principles provided by the international community. In accepting the Belfast Agreement the unionists involved have not shirked their responsibility in endeavouring to provide a political framework within which all democrats can feel at home. They have gone that extra mile to reach an honourable settlement.